

Educational Series---No. 1

ALIEN AND SEDITION LAWS

In his special message to congress President Roosevelt intimated that when certain newspapers criticised the Roosevelt administration because of alleged irregularities in the purchase of the Panama canal they were attacking the government. He said it would not be fair to require an individual to bring libel proceedings but that the government being the one assailed it could institute libel proceedings. A federal grand jury in session at Washington, D. C., is now investigating these libel charges evidently acting under instructions from the president. These proceedings seem to be directed particularly against the New York World and the Indianapolis News. The exact form of these proceedings seems not to be clearly understood outside of the president's circle of advisors, but these proceedings suggest lese majeste and recall the alien and sedition laws, the enactment of which led to the overthrow of the federal party.

The students of government—young and old—ought to study with great care the proceedings commenced through Mr. Roosevelt and against these two newspapers. They ought to acquaint themselves with the history of the Alien and Sedition laws. This history provides a most interesting chapter. For the help of students The Commoner reproduces certain extracts from Henry William Elson's "History of the United States of America," published by the MacMillan company. Professor Elson says:

"The over-zealous federal party now proceeded to enact the famous or rather infamous alien and sedition laws. The alien and sedition laws are usually named together in common parlance, but they were passed separately, though their general object was the same. The most offensive section of the alien act gave the president power to banish from the country, without giving a reason, without a trial of any sort, any alien whom he considered a dangerous or suspicious person. A cry instantly arose from the republican press, denouncing the law as unconstitutional, since it denied trial by jury and usurped a power that belonged wholly to the states.

"But a muzzle was soon placed on the republican press by the enactment of the sedition law. The most objectionable feature of this law was that which made it a crime, to be punished by fine and imprisonment, for any one to print or publish any false, scandalous, and malicious writings against the government, congress, or the president, with intent to defame them, to bring them into contempt, or to excite the hatred of the people against them, and so forth. This was a blow at the right of freedom of speech and the liberty of the press. It was aimed chiefly at a few reckless republican editors whose continued attacks on the high officials of the government and their acts were unsparing. Such terms as 'scoundrel,' 'villain,' and the like were in common use, and sometimes opposing editors, meeting on the street, would engage in a fist fight. But such terms were not confined to the republican editors for whom the law was intended. The federalist editors were equally reckless.

"The alien act was never enforced. Its enforcement lay wholly with the president, and Adams was not radical; he was one of the very few men in public life in America who were without a French or an English bias. The alien law, therefore, remained a dead letter until it expired, two years after its enactment.

"But not so with the sedition act; and the first to feel its weight was Matthew Lyon, a member of congress from Vermont. Lyon was a witty, red-faced Irishman, who had come to America when a boy, as a redemptioner, had served in the revolution, had acquired large property, and now had a seat in the house of representatives. He was a rabid republican and the federalists, who thoroughly hated him, called him the wild Irishman. With one of their number, Griswold, he had had a rough and tumble fight on the floor of the house. Scarcely had the sedition act become a law when Lyon was arrested for publishing a letter in a Vermont paper in which he severely criticised the government for its 'ridiculous pomp, foolish adulation, and selfish avarice.' He was fined \$1,000 and sent to prison for four months. His friends got up a petition for his pardon, but as

he refused to sign it, the president refused to pardon him. But he was triumphantly re-elected to congress while still in prison. One editor was fined and imprisoned for stating that the president was hardly 'in the infancy of political mistake,' another for accusing Hamilton of attempting to purchase a republican paper in the interest of federalism. It is plain to be seen that such a law was intended only to vent partisan bitterness, and that in the end its effect would be to injure the party that had framed it. And so it proved.

"Late in the year 1798, but a few months after this law went into effect, the legislature of Kentucky passed a remarkable series of resolutions, severely arraigning the alien and sedition laws as unconstitutional; and a few weeks later the legislature of Virginia passed a similar series, somewhat milder in tone. Many years later it was discovered that Jefferson had written the Kentucky resolutions and Madison those of Virginia.

"The Kentucky legislature modified the original resolves of Jefferson before adopting them, but the next year it incorporated much that had been omitted the year before. These resolves set forth three important propositions: First, that the constitution is a compact to which each state is a party, that the government created by it has certain delegated powers, and if it assumes undelegated powers, its acts are void, and that the parties to the compact, that is, the states, have a right to judge of its infractions and of the mode and measure of redress. Second, the alien and sedition acts are examined and the conclusion is reached that congress has exceeded its powers in passing them. In these two features the Kentucky and Virginia resolves agreed in substance. But in the third—the remedy to be applied—they were somewhat different. The second set of Kentucky resolves pronounced nullification the rightful remedy for assumed powers of the government. The Virginia resolutions did not use the word 'nullify,' but declared that the states had the right to interpose in case the government assumed a dangerous exercise of powers. The first of these propositions, the compact theory, was one of vast consequence, and sixty years later it became the chief ground on which the southern states justified their secession from the union.

"These resolutions made a profound sensation throughout the union, and, though condemned by other legislatures, they did much to awaken the people to the fact that the government had overstepped its rightful authority in passing the alien and sedition laws. Jefferson wrote the resolutions at a moment of intense political excitement, and, as shown by his life and writings, they did not represent his later judgment; the nullification of a national law by a state or the dismemberment of the union for any cause was no part of his matured political creed.

"The dominant party was now called to render an account of itself before the great final American tribunal—the people—for the time had come for another presidential election. Not only had the party offended property owners by its house and slave tax, foreign-born citizens by its naturalization law, and many lovers of liberty by its alien and sedition laws; it had also to contend with irreconcilable factions within. Adams had made the serious mistake of retaining Washington's cabinet entire, and it was composed of men who looked to Hamilton rather than to the president as their political oracle. Indeed, Adams never enjoyed the confidence of this cabinet, and when he appointed the last mission to France without consulting them they broke into open rebellion. Adams dismissed them and appointed John Marshall secretary of state, and Samuel Dexter secretary of war, but the party was already rent in twain, and in this condition we find it at the coming of the election of 1800. Hamilton went so far as to write a scathing pamphlet against Adams to show his unfitness for the presidency. And yet Adams, whose revolutionary services were still remembered by the people and whose rugged honesty could not be questioned, was the only federalist who could hope for success; and Hamilton at length came to his support "to save us from the fangs of Jefferson." But the

mischievous had been done. Hamilton's letter had been published broadcast in the republican press.

"The great republican leader, from the irresponsible watch-tower of the vice presidency, had for four years watched the political chess-board with eagle eye. He had done more. He had guided with an unseen hand the outlying battalions of his army of followers to the remotest corners of the union; he had set public opinion against the alien and sedition laws without the public knowing who was its guide; he knew the political complexion of every state legislature, and the approximate political condition of almost every county in the United States. The republicans had no second choice for the presidency; Jefferson was their unus solusque, and they placed Aaron Burr on their ticket for the vice presidency.

"The campaign was the most acrimonious in the history of the country. The unpopular federal laws furnished the chief issue; but, having exhausted their political thunder, both sides stooped to personalities, and Adams and Jefferson were denounced unsparingly by their respective enemies. The electoral college was carried by the republicans, who polled seventy-three votes to sixty-five by the federalists. But there was no election. Jefferson and Burr had received the full republican vote, and, as the constitution did not authorize the electors to choose between them, this duty devolved on the house of representatives. Here was a dilemma. The house was controlled by the federalists. Each state had one vote, cast by a majority of its delegates. There were sixteen states, and it required nine to elect. The federalists might permit the election of Jefferson or Burr, or they might prevent an election and by act of congress choose a president pro. tem. from their own party. This latest scheme was discussed in their newspapers, and had it been carried out civil war would have followed; for the middle states threatened to arm the moment such a bill should pass.

"The federalists then determined to elect Burr, not that they loved him more, but Jefferson less. Their motive was ignoble, and was born of chagrin at their defeat at the polls, a desire for revenge on their successful rivals, and the hope of intriguing with Burr for a share in the offices. Their plea that they regarded Jefferson a dangerous man was insincere, for Burr was no less so, and they knew it. Burr had not been dreamed of for the presidency by his own party. Why should he be thrust upon the party by its enemies?

"The house met to decide the momentous question and the country held its breath. On the first ballot Jefferson received the votes of eight states, Burr those of six, while the votes of two, Vermont and Maryland, were a tie. The balloting went on day after day with little change, when the influence of a great man—great in soul with all his faults—came to decide the question. It was Hamilton. He contended that it was dangerous to thwart the will of the people who had carried the election, to thrust upon the country a chief magistrate who had been nobody's candidate. And further, he knew Burr to be a self-seeker of dangerous ambition. He believed Jefferson to be patriotic and honest, with all his heresies, and preferred to see the country in his 'fangs' rather than in those of Burr. 'I can not,' said Hamilton, 'remain with a party which so degrades itself as to elect Burr.' Through the advice of Hamilton the federalist delegates from the divided states withdrew or voted blank, giving those states to Jefferson, who was elected president on the thirty-sixth ballot.

"The federal party took its defeat ungracefully. It spent the last weeks of its power in passing a law, known as the midnight judiciary, which every fair-minded student of history must condemn. By this act twenty-three new judicial districts were created, and the outgoing president filled these offices, the only life-tenure offices under the constitution, with members of his own party. The business of the courts did not call for such an extension, as it came to do in later years, and the object of the federalists was to intrench themselves in power where they believed their opponents could not reach them.

"John Adams now retired from public life, and his remaining twenty-five years he spent as a private citizen at his New England home. He was far less fitted for the great office than either of the men between whose administrations he served. He was honest, upright, and patriotic to the last degree; but he was irascible, suspicious of others, stubborn, and wholly incapable of winning and managing men. In his foreign policy he was broad-minded and intensely American. The motives for his ac-